REMARKS

Claims 1-75 are pending in the application. Claims 45-59 have been withdrawn from further consideration.

Claim 6 has been objected to for an informality in the punctuation of the claim. The foregoing claim amendment to Claim 6 cures this informality by adding a period at the end of the claim. Acceptance is respectfully requested.

Claim 24 has been rejected under 35 U.S.C. § 112 second paragraph for insufficient antecedent basis of the claim term "management certification". The foregoing amendment to Claim 24 provides proper antecedent for this claim term. As such the rejection under 35 U.S.C. § 112 second paragraph is believed to be overcome. Acceptance is respectfully requested.

Claims 1-6, 9-32, 35-40, 44, 60-70 and 72-75 have been rejected under 35 U.S.C. § 102(a) and (e) as being anticipated by Ibarra (U.S. Patent No. 6,119,097).

Applicants disclose that store performance (or productivity), in the way of retail sales, is a function of store location, employee actions, customer flow and other factors. In order to quantify and systematically analyze and improve store performance, Applicants provide the present invention. Methods and apparatus embodying the present invention utilize sales transaction data from store sales activity. The invention system analyzes the sales transaction data and computes (quantifies) employee sales performance or an aggregate synopsis thereof. Using this quantitative measure, the present invention develops a hypothesis for improving store performance and in turn determines recommended actions (qualitative conclusions) for employees toward improving store performance. Subsequent sales transaction data serves as a feedback loop in showing effect on store performance of recommended actions as applied by employees. See Specification page 3, lines 5-10; page 4, lines 1 -15; page 5, lines 16-26; page 6, lines 8-10 and 23-24; and page 7, lines 5-9.

In contrast, Ibarra is not directed to store performance or improvement of the same. Ibarra does not, in an automated quantitative manner, analyze sales transaction data to compute an aggregate synopsis of employee performance as claimed in the present invention. Further, Ibarra does not develop a hypothesis for store improvement based on the computed aggregate synopsis as in the claimed invention. These patentable distinctions are claimed in base Claims 1, 20, 60, 64 and 73-75 as now amended with the language (or similar language)

"   ...   collecting transaction data of store sales activity, ...;

analyzing the collected transaction data to compute an aggregate synopsis of performance of a subject under observation;

hypothesizing using the aggregate synopsis, said hypothesizing developing a hypothesis for store improvement..."

Claims 2-6, and 9-19 depend from Claim 1 and thus inherit these claim terms. Claims 21-32, 35-40 and 44 depend from base Claim 20 and thus inherit these claim terms. Likewise, Claims 61-63 depend from Claim 60, and Claims 65-70 and 72 depend from Claim 64 reciting these patentable distinctions.

Thus, Ibarra does not anticipate the subject matter of the claims as now amended. Thus removal of the § 102 rejection is respectfully requested.

Claims 7, 8, 33 and 34 have been rejected under 35 U.S.C. § 103 as being unpatentable over Ibarra. Claims 7, 8, 33 and 34 are dependent on respective base Claims 1 and 20, and thus the foregoing arguments apply here. Where Ibarra does not imply or suggest the improving of store performance as now claimed in base Claims 1 and 20, it cannot be said that the subject matter of the dependent claims is implied, suggested or otherwise made obvious by the cited art. Accordingly, withdrawal of the § 103 rejection of Claims 7, 8, 33 and 34 is respectfully requested.

Claims 41-43 and 71 have been rejected under 35 U.S.C. § 103 as being unpatentable over Ibarra and Osborne et al. (U.S. Patent No. 6,589, 055).

Claims 41-43 depend from base Claim 20, and Claim 71 depends from base Claim 64. Thus the above arguments of Ibarra as applied to base Claims 1, 20, 60, 64 and 73-75 apply here. Osborne does not add to Ibarra the quantitative analysis of store performance based on sales transaction data and a hypothesis for store improvement as now claimed by the present invention. Thus no combination of Ibarra and Osborne makes obvious the present invention as now claimed.

The patentably distinguishing language of base Claims 20 and 64 recites

"...   a transactional data store operable to store transactional data of store sales activity...;

an analysis engine coupled to receive the transactional data from the data store, the analysis engine operable to compute an aggregate synopsis of performance of the subject under observation from the transactional data; and

a hypothesizer responsive to the analysis engine and operable to develop a hypothesis for store improvement and ... "   and

"...   gathering, via a sales transactional data interface, transactional data ...

identifying, via a hypothesizer for improving store performance, areas for improvement for each employee...;

mapping, via a qualitative mapping engine, the identified areas for improvement into a predetermined list of recommended actions, the recommended actions for at least improving proficiency of skills; ...

measuring, via subsequently gathered transactional data, the effect of the recommended actions on the revenue generating performance of the employees and store performance."

Claims 41-43 and 71 being dependent on respective base Claims 20 and 64 inherit these claim limitations and thus also patentably distinguish over the cited art. Accordingly, the § 103 rejection of Claims 41-43 and 71 is believed to be overcome and withdrawal of this rejection is respectfully requested.
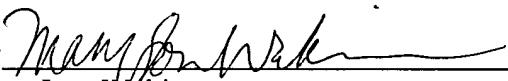
Accordingly, Applicants provide a different approach to retail sales store productivity. The analysis is based on the customer visit or customer experience while shopping at a store, where good experiences result in sales being made. Sales made are quantitatively tracked as recorded by a general accounting system of the store and used by the present invention in determining areas of improvement. Employee improvement (in producing positive customer experiences resulting in sales) translates into store improvement. Applicants' invention also provides improved management, i.e., determining teams of employees that generate positive customer visits/experiences (and hence store improvement) and in turn determining daily plan per store. See for example Claims 11-14 and 18-19. Nowhere in the prior art is such an approach to analyzing and improving retail sales store performance as in the present invention.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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